Decision 03-02-047 February 27, 2003

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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| Application of Pacific Gas and Electric Company in the 2000 Annual Transition Cost Proceeding. (U 39 E) | Application 00-09-001 (Filed September 1, 2000) |

(See Appendix A for a list of appearances.)

## OPINION ON 2000 ANNUAL TRANSITION COST PROCEEDING

### I. Summary

In this decision, we find that:

1. Pacific Gas and Electric Company's (PG&E) expenses totaling $7.4 million for procurement of electricity for the period January 1, 1999 through June 30, 2000 are reasonably incurred costs and should be recovered from all customers, including direct access customers, through the Transition Cost Balancing Account (TCBA).

2. Disputed settlement costs of $194,860 in the *Jaroslaw Waszcuk v. PG&E* case are Qualifying Facility (QF) related costs and appropriately recorded in the TCBA.

3. The Bargaining Unit Severance and Displacement (BUSD) program costs requested by PG&E are reasonable and appropriately recorded in the TCBA.

4. The remaining uncontested costs and accounting entries are reasonable and appropriately recorded in the TCBA.

## II. Background

The purpose of PG&E's 2000 Annual Transition Cost Proceeding (ATCP) is to review PG&E's record period entries into the TCBA. The record period for this proceeding runs from July 1, 1999, through June 30, 2000.

The ATCP also reviews the reasonableness of PG&E's record period activities and expenses associated with PG&E's administration of, purchases from, and scheduling of PG&E's must take electrical resources, including PG&E's qualifying facility (QF) and other power purchase agreements (PPAs). The ATCP reviews the reasonableness of PG&E's geothermal, hydroelectric, and Helms (pumped storage) operations and PG&E's generation-related employee transition costs.

In addition, PG&E has requested that the Commission authorize PG&E to recover its costs of procuring electricity on behalf of its customers dating back to January 1, 1999, through the record period in this proceeding.

The Office of Ratepayer Advocates (ORA) has been the only active participant in this proceeding. ORA reviewed PG&E's showing, conducted discovery, and produced a report that either approved or did not dispute almost all of PG&E's request. With the exception of three issues, PG&E's request for approval of the revenues and costs recorded in the TCBA and TCBA-related memorandum accounts from July 1, 1999, through June 30, 2000, is undisputed. The three unresolved issues are discussed below.

## III. Procedural Summary

Pursuant to Resolution ALJ 176-3047 dated September 21, 2000, this proceeding was preliminarily categorized as ratesetting and determined to require hearings. We affirm these preliminary hearing determinations.

Prehearing conferences were held on December 18, 2000 and April 6, 2001. Evidentiary hearings were held on May 15 and 17, 2001. Opening and reply briefs were filed by ORA and PG&E on June 29 and July 20, 2001 and this matter was then submitted for decision.

## IV. Recovery of Electric Supply Procurement Costs Through the TCBA

PG&E seeks recovery of $7.4 million incurred to procure power on behalf of its customers from January 1, 1999 through June 30, 2000. These administration costs include forecasting, scheduling, and bidding into and settling with the Power Exchange. About 45 employees perform these electric procurement activities.

### A. Position of ORA

ORA argues that the Commission should disallow recovery of the $7.4 million because not only do these costs fail to qualify as transition costs, but they require specialized treatment beyond the scope of the ATCP to ensure that those customers who did not benefit from PG&E's procurement services do not bear these costs. ORA cites PG&E's 1999 General Rate Case (GRC) Decision, (D. 00-02-046, mimeo., p. 492, Finding of Fact 32 – "PG&E does not bid demand into the PX on behalf of direct access customers, and if PG&E collects costs for this activity from all distribution customers, direct access customers will pay twice for the same service."

ORA also argues that $5.5 million of the $7.4 million was not subjected to a reasonableness review in the GRC, and should be disallowed for that reason.

### B. Position of PG&E

PG&E disputes ORA's contention. PG&E points out that almost a year after the GRC decision was issued, the Commission, in D.01-01-019 (the 1999

Revenue Adjustment Proceeding (RAP) decision), issued the results of its examination of whether the long-run marginal cost of electric supply procurement administration should be allocated to direct access customers as a result of the utilities' default service obligation. The Commission concluded:

> "13. The default service obligation benefits all customers in that it provides them with something akin to an insurance policy.
>
> 14. The default service obligation is not cost-free and all electricity customers should pay for it." (D.01-01-019, Findings of Fact 13 and 14.)

In response to ORA's argument that these costs do not fit the statutory definition of transition costs and, therefore, may not be recorded and recovered through the TCBA, PG&E points out that generation-related costs that are not transition costs have been approved by the Commission for recovery in the TCBA as follows:

> "The Commission approved recovery through the TCBA of the Workforce Reduction Revenue Mechanism (WRRM) in D.01-01-020; the generation-related portion of the Catastrophic Event Memorandum Account (CEMA) in D.00-04-050; Biennial Resource Plan Update (BRPU) settlement costs in D.00-12-059; and other generation-related non-transition costs including an entry to eliminate the effect of the energy theft revenue imputation on PG&E's revenue requirement per Advice Letter 1924-E. The TCBA also recovers some ongoing operating costs of PG&E's retained generation." (D.01-03-082, mimeo., p. 29.)

### C. Discussion

We reject ORA's argument that direct access customers will pay twice if they share in PG&E's administration costs for procuring electricity.[1] Following an examination of the default service obligation in the 1999 RAP, the Commission concluded that the utility's obligation to provide electric service when called upon to do so by any direct access customer, is insurance for those customers (D.01-01-019, Findings of Fact 13 and 14). In this decision, we conclude that such insurance should not be provided to direct access customers at the expense of bundled service customers. Therefore, direct access customers should rightfully be required to share this cost, the same as bundled service customers.

Next, we turn to ORA's argument that $5.5 million (of the $7.4 million) for the January 1, 1999 through February 2000 period should be disallowed because this amount was a forecast adopted in the 1999 GRC and not subjected to an ATCP reasonableness review. Apparently, ORA concedes that the remaining approximately $2.0 million requested revenue requirement for the March 1, 2000 through June 30, 2000 period is reasonable since it is based on actual costs.

We now know that the actual costs are higher than the $5.5 million revenue requirement adopted by the Commission in the 1999 GRC. Rather than seek to include actual costs, PG&E elected to use the lower GRC-adopted amount

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[1] Notwithstanding the fact that the Commission adopted ORA's position in the GRC (D.00-02-046, Finding of Fact 12), it later rejected this argument in the subsequent RAP decision. Even after the Commission's change in position on this issue, ORA continues to make the same argument in this proceeding.

in the TCBA. Under the circumstances, we find no reason not to allow PG&E to use the lower adopted amount in the TCBA.

Regarding the reasonableness of the $5.5 million amount, we note that ORA does not take exception to the remaining approximately $2.0 million (of the $7.4 million) requested by PG&E for the four-month period from March 1, 2000 through June 30, 2000. Since power procurement is essentially an ongoing activity of PG&E, and given that the cost of approximately $2.0 million for four months of operation is uncontested, we conclude that the requested $5.5 million for a period of 13 months is reasonable on its face.

We note that electric supply procurement administration costs for the period at issue are not being recovered through any PG&E rate mechanism. These costs are not being recovered through the TRA, which is reviewed in the RAP, nor are they being recovered through the distribution revenue requirement, which was adopted in the GRC. At this point, the only forum available to PG&E is the TCBA. Therefore, we conclude that PG&E's request for authority to record the $7.4 million of electric procurement administration costs in the TCBA should be granted.

## V. Contract Dispute Settlements

PG&E seeks to include $194,860 in the TCBA for the cost of defending itself against a lawsuit brought by a former QF employee named Jaroslaw Waszcuk (Waszcuk).

In 1996, Waszcuk was employed as an operator at Destec Energy's San Joaquin cogeneration facility located in Lathrop, California. Destec sold energy and capacity from the San Joaquin plant to PG&E under a 30-year Standard Offer #2 Power Purchase Agreement (PPA). Waszcuk contacted PG&E in 1996 and stated that Destec was venting steam from the San Joaquin facility, rather than putting the steam to a thermal use as required by the Public Utility Regulatory Policies Act (PURPA) of 1978, Public Utilities Code[2] Section 218.5, and the PPA. Based on information provided by Waszcuk and other sources, PG&E filed a lawsuit against Destec in 1997. PG&E informed Destec in 1998 that it intended to file a petition at the Federal Energy Regulatory Commission for the revocation of the San Joaquin facility's QF status and to seek PPA termination based on Destec's breach of the agreement. Soon thereafter, the parties engaged in settlement negotiations and ultimately agreed to terminate the PPA, which led to approximately $100 million in ratepayer benefits. The Commission approved the termination in D.99-10-016 and approved a shareholder incentive for PG&E in D.00-11-013.

Waszcuk sued PG&E in April 1999, claiming he was entitled to 25% of the value of the PPA termination for information he provided about the operation of the San Joaquin facility, which was at the core of the litigation between PG&E and Destec. PG&E disputed Waszcuk's claim and ultimately settled the case. Including PG&E's legal expenses of $44,860, the total expenditure was $194,860.

### A. Position of ORA

ORA opposes recovery of the *Waszcuk* settlement expenses through the TCBA. ORA notes that PG&E's argument for recovery of its *Waszcuk* lawsuit settlement costs rests on the grounds that Waszcuk's claim arose solely from a QF contract dispute between Destec and PG&E. ORA argues that "arose from" is not the standard. ORA contends that even if the PG&E-Destec contract had a causal influence on the *Waszcuk* suit, the relevant inquiry is whether the *Waszcuk*

[2] All statutory references are to the Public Utilities Code unless otherwise stated.

settlement "flowed from the terms" of the contract as required by D.97-11-074 (discussed below). According to ORA, the settlement involved a complete different – albeit alleged – dispute between a private citizen and PG&E; the terms of the alleged agreements did not involve the purchase or delivery of power or fuel; the terms related to compensation of a confidential informant for information; and, QF contract administration by PG&E – whether prudent or imprudent – played no role in the *Waszcuk* settlement.

Further, ORA argues that there has been no reasonableness showing by PG&E to justify the fact or the amount of the settlement, and whether PG&E's attorney acted reasonably in entering into the settlement.

Lastly, ORA contends, that in any event, PG&E budgeted litigation costs as part of its GRC revenue requirement, so that Commission need not be concerned that the *Waszcuk* costs will fall unnoticed into a regulatory abyss.

### B. Position of PG&E

PG&E responds that according to D.97-11-074, the decision ORA relies on, settlements and judgments <u>related to</u> QF power purchases agreements and administrative and litigation costs <u>associated with</u> these contracts may be recorded in the TCBA. PG&E contends that there is no requirement that these costs stem directly from a QF contract.

PG&E argues that the *Waszcuk* settlement costs compared to the ratepayer benefits associated with the termination of the Destec QF Contract are reasonable. PG&E states that it paid Wasczuk a token compared to his demand, and PG&E provided ample information upon which the Commission could judge the reasonableness of the *Wasczuk* settlement costs.

Further, PG&E points out that throughout the discovery process and the development of prepared testimony, ORA did not question the reasonableness of the settlement costs, nor did ORA ask for the basis of the settlement, or question the strength of the plaintiff's case. ORA's only objection to recovery of these costs in this proceeding was its allegation that the costs were not sufficiently associated with a QF contract to fit within the TCBA. From the lack of discovery on this issue, PG&E states that it believed that ORA was satisfied with the level of information regarding the reasonableness of the settlement. Therefore, PG&E provided a witness to address the only issue raised by ORA, i.e., whether the settlement costs belonged in the TCBA.

### C. Discussion

We reject ORA's argument that the *Waszczuk* settlement costs are covered by the GRC revenue requirement which includes PG&E's general litigation costs. We also reject ORA's argument that these costs do not belong in the TCBA (if found reasonable), because they do not directly flow from a QF contract. The Commission squarely addressed these issues in D.97-11-074 as follows:

> "… In the absence of generation PBRs, <u>costs associated with QF and interutility contracts</u> should continue to undergo reasonableness reviews, and these reviews should be undertaken as part of the annual transition costs proceedings, to the extent that such reviews are not eliminated by standard offers and approved contracts. Annual reviews will include a review of contract administration and litigation costs.
>
> "In D.96-04-034, which modified D.95-12-051, we provided that PG&E could recover the costs of QF litigation settlements and judgments if prudently incurred, but noted that reasonableness review of these costs was essential:
>
>> "In future reasonableness reviews of settlement and judgment costs, we intend to inspect carefully the sources

> of the costs. If a settlement or judgment flows from the terms of a QF contract approved by the Commission, we may find that ratepayer support of associated payments is fair and reasonable. On the other hand, if a settlement or judgment is the result of imprudent contract administration by PG&E or in some way compensates a fuel or energy supplier for PG&E actions not approved by the Commission, then we may deny ratepayer support. In particular, judgments in tort actions – which generally exclude contract disputes – should not be recovered from ratepayers." (D.96-04-034, mimeo. at p. 3.)
>
> "This same rationale should apply to the litigation costs and QF administration costs for all utilities. We order this verification and showing to occur in the annual transition cost proceeding. This approach will allow us to transition out of the traditional ECAC proceedings. …" (D.97-11-074, mimeo., pp. 127-128, emphasis added.)

Thus, we believe it is clear that litigation costs associated with QF contracts, if found reasonable, should be included in the TCBA, not the GRC.

And, we reject ORA's argument that Waszcuk's claim did not "flow from" the terms of a QF contract as required by D.97-11-074.

We now turn to the more troubling issue -- ORA's argument that PG&E provided no information about how it litigated the *Waszcuk* case or why it chose to settle, and that there has been no reasonableness showing by PG&E to justify the fact or the amount of the settlement.

There is no dispute that utilities appearing before the Commission have always had the responsibility of justifying their applications with clear and convincing evidence. And, the Commission has been equally clear that ORA does not have the burden of proof on reasonableness issues. ORA need only introduce credible evidence that raises a reasonable doubt as to the prudency of the utility's actions. (See Re: *Pacific Bell*, 27 CPUC2d 1 at 21 and 22; D.87-12-067 (1987).)

In this proceeding, as pointed out by PG&E, the only issue raised in ORA's report was whether these costs belonged in the TCBA:

> "5.1.8. PG&E describes seven contract disputes. Five of the seven are still in process. One settlement was approved in the 1999 ATCP proceeding. The last settlement is [sic] *Jaroslaw Waszcuk v. PG&E* is final and is the only dispute for which PG&E seeks approval of costs in this ATCP. The PG&E workpapers put the dollar amount at $194,860 including associated costs.
>
> 5.1.9. ORA is opposed to including this settlement cost in the ATCP. This dispute was not a QF contract dispute. This was an action of private citizen against PG&E and it would be inappropriate to include these costs in the amount of CTC to be recovered from ratepayers." (ORA report, Exhibit 16, p. 5-3.)

In response to ORA's report, PG&E provided rebuttal testimony and a witness from its revenue requirements division to address recovery of these costs through the TCBA. At the hearing, in response to a series of questions from ORA's counsel regarding PG&E's handling of the litigation, PG&E's witness responded that she was not involved in the litigation and did not know the answers to counsel's questions. In hindsight, we believe that PG&E should have been given the opportunity to present a "percipient witness" at some later date to address the concerns ORA's counsel raised for the first time at the hearing. However, that did not happen and we must now decide whether this matter should be postponed to the next ATCP or decided on the merits. We choose to do the latter. Given the facts of the *Waszcuk* case, the possibility of a jury trial, an award for loss of employment opportunities for the whistleblower, and the alleged contract for 25% of the value of the QF contract termination, we conclude that PG&E's total cost of $194,860 to resolve this matter for a ratepayer benefit of up to $100 million is reasonable, and the $194,860 amount should be entered in the TCBA.

## VI. Bargaining Unit Severance and Displacement (BUSD) Program

In order to retain skilled workers at divested power plants affected by electric industry restructuring, the Legislature directed the Commission to allow recovery of reasonable employee-related transition costs incurred and projected for severance, retraining, early retirement, outplacement, and related expenses. (Section 375.) And, in D.00-02-048, we adopted a settlement in which PG&E, the Coalition of California Utility Employees, and ORA agreed to the terms of PG&E's employee-related transition programs.

During the record period, PG&E paid approximately $4.3 million to its employees as part of its BUSD program. ORA does not take issue with these payments, except for an amount of $1,346.

### A. Position of ORA

ORA says that the amount in dispute represents an employee who had gone through the severance and displacement process, received her final $50,000 payment and then was transferred to another divested plant where she received a $1,346 payment seven weeks later under the same program. The employee will also eventually receive at least one more $50,000 payment. And according to ORA, other PG&E employees also are scheduled to receive multiple $50,000 payments. ORA points out that in addition to the severance and displacement payments, the same employees will receive payments for retraining, wage protection, outplacement, and ordinary severance packages.

Further, ORA says that in the 1998 ATCP Settlement Agreement, it was led to believe that PG&E's severance and displacement payments to each employee would have a $85,000 ceiling ($10,000 + $15,000 + $50,000 = $85,000), with the $50,000 payment concluding the process at whatever point it occurs. Based on the understanding that the $50,000 payment would be the last, ORA agreed that the program was reasonable. According to ORA, without warning, PG&E now asserts that in fact there is no payment ceiling, and that multiple payments to an employee may continue as long as the Operation and Maintenance (O&M) contracts with divested plants are in effect. ORA contends that it is grossly unfair to expect ratepayers to subsidize multiple $50,000 bonus payments to employees who hop from divested plant to divested plant without restriction.

### B. Position of PG&E

PG&E responds that ORA's focus on payments to individual employees is inconsistent with the purpose behind the BUSD program. According to PG&E, the purpose of the BUSD program is to retain qualified workers required for plant operations through the period of the O&M agreement. PG&E contends that by following ORA's interpretation, PG&E would be prohibited from utilizing the BUSD program to retain qualified workers for plant operations, thereby compromising the goal behind Section 363, which is to "ensure the continued safe and reliable operation of public utility electric generating facilities."

In addition, PG&E takes issue with ORA's statement that the one affected employee in this record period has not been negatively impacted. PG&E points out that the employee was displaced from her position at Pittsburg Power Plant, where she worked for many years, and assigned to another power plant some 45 miles away, and then was subsequently displaced from that assignment. According to PG&E, payments under the BUSD program are intended to mitigate exactly this kind of negative impact to the employee.

### C. Discussion

This issue involves two explicitly stated objectives of the Legislature: (1) to protect utility employees from potential negative impacts of electric industry restructuring by ensuring that those employees directly affected receive adequate employment benefits (Section 375(a) and 330(u)); and, (2) to ensure a smooth transition to an unregulated marketplace by promoting safe and reliable operation of PG&E's generation facilities until they are transferred to the new owners (Section 363). To achieve these objectives, PG&E and the unions negotiated various programs to ensure that experienced workers remained in the facilities to be divested pending final sale and extending through the two-year O&M period with the new owners. One such negotiated program was the BUSD program. As described by PG&E in the 1998 ATCP, the program is as follows:

> "The current Union agreements provide for a severance payment of four weeks of pay, plus one week's pay for each year of service, up to a maximum of 52 weeks. . . .
>
> The IBEW negotiated an additional severance and displacement program for certain Union members located in a facility scheduled for divestiture. The additional severance and displacement program provides payments at various times after the CPUC approval of divestiture, which is referred to as the 'trigger date.' The program anticipated that the § 851 process could take several years. *The payment schedule for employees remaining at a facility after the approval of the § 851 process is the following:*
>
> - $10,000 one year after the trigger date;
> - $10,000 two years after the trigger date;

- $15,000 three years after the trigger date;
- $50,000 final payment, when the employee is displaced.

> *The $50,000 payment is made in conjunction with an employee's displacement* or layoff, and therefore may be paid prior to year four in conjunction with the application of the demotion and layoff provisions of the appropriate collective bargaining agreement." (Exhibit 33, pp. 3-27 – 3-28 in A.98-09-003, emphasis added.)

In addition to the two objectives stated above, the Legislature clearly expressed its intent that the costs of protecting utility employees from the potential negative impacts related to electric industry restructuring would be the ratepayers' responsibility. Section 330(u) provides that whether workforce reductions are voluntary or involuntary, reasonable costs associated with these sorts of benefits should be included in the competition transition charge. Section 375(a) requires the Commission to allow the recovery of reasonable employee related transition costs, and, Section 375(b) requires that transition costs of employees performing O&M services in connection with Section 363 be recoverable by the utilities.

With these statutes in mind, we now turn to the issue raised by ORA: whether the ratepayers should be responsible for more than one-round of benefit payments under the BUSD program to an employee displaced under the demotion and displacement provision of the collective bargaining agreement, who chooses to transfer to a position in a divested power plant that was required to be filled under the Section 363 O&M contract. In assessing the reasonableness of such payments for inclusion in the TCBA, we have to recognize that PG&E is required to fill such vacant positions and must necessarily offer employees an incentive to relocate and forego other job opportunities. Regardless of whether the employee is also serving her own self interest by continuing employment with PG&E and receiving multiple payments of $50,000 in the process, the fact is that by transferring to another power plant upon being displaced, rather than leaving PG&E altogether, the employee is enabling PG&E to fulfill its Section 363 O&M responsibilities. Moreover, the receipt of more than one $50,000 payment by an employee as a result of working in more than one covered position at more than one divested power plant is not precluded by the terms and conditions of the Settlement Agreement approved by the Commission in D.00-02-048. Therefore, we conclude that these payments, which are sanctioned by law, are reasonable for recovery through the TCBA.

## VII. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed on February 18, 2003, by ORA, and reply comments were filed on February 26, 2003, by PG&E. We have reviewed the comments and reply comments and made changes to the proposed decision where appropriate.

## VIII. Assignment of Proceeding

Carl Wood is the Assigned Commissioner and Bertram Patrick is the assigned Administrative Law Judge in this proceeding.

## Findings of Fact

### Electric Supply Procurement Costs

1. PG&E has a default service obligation to provide direct access customers with service when called upon to do so; therefore, it is reasonable to require direct access customers to share in PG&E's administration costs for procuring electricity, the same as bundled service customers.

2. The TCBA is the only forum available for PG&E to recover administration costs for procuring electricity for the 14-month period January 1, 1999 through February 2000; therefore, it is reasonable to allow PG&E to record these costs in the TCBA.

3. The Commission adopted an estimate of $5.5 million in the 1999 GRC decision for administration costs for procuring electricity for the 14-month period January 1, 1999 through February 2000. Since the GRC estimate is lower than the actual recorded figure for that period, it is reasonable to allow PG&E to record the lower $5.5 million figure in the TCBA.

4. Since there is no dispute regarding the remaining approximately $2.0 million administration costs for procuring electricity for the four-month period March 1, 2000 through June 30, 2000, it is reasonable to allow PG&E to record the total amount of $7.4 million for the 18-month period January 1, 1999 through June 30, 2000 in the TCBA.

**Contract Dispute Settlement**

5. Since the information provided by Waszcuk enabled PG&E to terminate its PPA with Destec, thereby providing approximately $100 million in ratepayer benefits, PG&E's expenditure of $194,860 to settle Waszcuk's claim against PG&E, is reasonable.

6. In D.97-11-074, the Commission concluded that costs associated with QF contract administration and litigation, if found reasonable, should be included in the TCBA.

7. Since the *Waszcuk* litigation costs did arise from the administration of a QF contract, and are reasonable in light of the ratepayer benefits realized, these costs should be recorded in the TCBA.

**BUSD Program and Other Issues**

8. The purpose of the BUSD program is to retain qualified workers required for plant operations through the period of the O&M agreements covering divested plants to ensure safe and reliable operation of those plants.

9. The incentive imbedded in the BUSD program to retain workers required for plan operations applies to the job positions (not specific individuals) at a particular plant, regardless of whether that person had worked at another plant and had received a final payment of $50,000 upon displacement.

10. Nothing in the 1998 ATCP Settlement Agreement precludes multiple payments to employees who work at more than one impacted plant.

11. The employee transition costs PG&E incurred during the record period were consistent with the terms of the programs approved in the 1998 ATCP decision, and appropriately recorded in the TCBA during the record period.

12. The prorated amount of $1,346 paid to the Pittsburg Power Plant employee who relocated to another impacted power plant, should be included in the TCBA.

13. We find the following activities and entries in the TCBA to be reasonable. These items are undisputed, have been justified, and are in compliance with applicable Commission decisions:

a. PG&E's PPA cost;

b. $46,651 in costs incurred for Bargaining Unit Retraining Assistance for 24 employees who were working at Morro Bay, Geysers, Moss Landing, Contra Costa, Potrero, and Pittsburg Power Plants;

c. $8,002 in costs incurred for Bargaining Unit Retraining Assistance;

d. $4,154 in costs incurred for Management Career Workshop for employees who were working at Morro Bay, Geysers, Moss Landing, Contra Costa, and Pittsburg Power Plants;

e. $426 in costs incurred for Management Career Workshop, since PG&E provided the relevant documentation; supporting this amount;

f. $5,282 in costs incurred for Bargaining Unit Relocation for two employees displaced from the Geysers Plants;

g. $4,268,369 in costs incurred under the BUSD program for 408 employees who were working at the Morro Bay, Moss Landing, Geysers, Potrero, and Pittsburg Power Plants;

h. $47,026 in costs incurred for Wage Protection for 11 employees who were placed in lower paying positions with PG&E;

i. $173,753 in costs incurred under the BUSD program for employees who were severed from the Geysers and Pittsburg Plants and the Power Generations Services, and Technical and Ecological Services;

j. $3,070,639 in costs incurred under the Management Severance program for 50 employees who were severed from the Morro Bay, Moss Landing, Geysers, Pittsburg, Potrero, Contra Costa Plants and Power Generation Services;

k. $412,584 in costs incurred for Voluntary Retirement Incentive for seven employees that retired from PG&E;

l. $507,454 in costs incurred for Management Enhanced PIP for 49 employees who were working at the Morro Bay, Moss Landing, Geysers, Pittsburg, Contra Costa and Potrero Power Plants;

m. $622,304 in a credit to the TCBA relating to interest calculation errors;

n. PG&E's proposed method for calculating and applying the rate of return and divestiture bonus incentive rate of return to uneconomic generation assets;

o. PG&E's entries in connection with 48-month accelerated depreciation of generation assets;

p. PG&E's schedule for amortization of regulatory assets through the TCBA;

q. PG&E's hydroelectric operations and water purchases for power for the record period;

r. PG&E's activities related to QF and other power purchase agreements, including Western Area Power Agency (WAPA) administration, and the associated costs; and,

s. $0.64 million in QF shareholder incentive related to renegotiated/restructured QF contracts during the record period.

## Conclusions of Law

1. The $7.4 million associated with procurement of electricity for PG&E's customers are appropriately recorded in the TCBA, reasonably incurred, and recoverable.

2. The $194,000 in settlement costs associated with the *Waszcuk* law suit are appropriately recorded in the TCBA and recoverable.

3. The $1,346 payment disputed by ORA made under the BUSD program were made in accordance with the terms of the program approved in the 1998 ATCP decision,

4. PG&E's entries in the TCBA during the record period are appropriate, and PG&E's record period activities addressed in this proceeding are reasonable.

## O R D E R

**IT IS ORDERED** that:

1. The revenues and costs recorded to the Transition Cost Balancing Account (TCBA) and TCBA-related memorandum accounts from July 1, 1999 through June 30, 2000, are approved.

2. Pacific Gas and Electric Company (PG&E) is authorized to record the electric supply procurement costs in the TCBA, beginning in January 1999.

3. Within 21 days of the effective date of this decision, PG&E shall file and serve a compliance advice letter to confirm the adjusted entries in its TCBA and related memorandum accounts. The advice letter will become effective after appropriate review by the Energy Division.

4. This proceeding is closed.

This order is effective today.

Dated February 27, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

**APPENDIX A**

Applicants: David R. Garcia, Attorney at Law; for Southern California Edison Company; and Lise H. Jordan, Attorney at Law, for Pacific Gas and Electric Company; Steven C. Nelson, Attorney at Law and Tom Whelan, for Sempra Energy.

Interested Parties: Michael Alcantar, Attorney at Law, for Cogeneration Association of California; Robert Finkelstein, Attorney at Law, and Jeff Nahigian for The Utility Reform Network; Jan Green, for Grueneich Resource Advocates; Adams, Broadwell, Joseph & Cardozo, by Kate Poole, for Coalition of California Utility Employees; James Ross, for Midway Sunset Cogen Association; Don Schoenbeck, for Coalinga Cogen Company and Alcantar & Kahl, LLP, by Evelyn Kahl, Attorney at Law, for Energy Producers & Users Coalition.

Protestants: Goodin, MacBride, Squeri, Ritchie & Day, LLP, by Jeanne M. Bennett, Attorney at Law, for Enron Energy Services, Inc.; and Scott T. Steffen, Attorney at Law, for Modesto Irrigation District.

Office of Ratepayer Advocates: J. Michael Chamberlain, Attorney at Law, and Donna-Fay Bower.

**(END OF APPENDIX A)**